

(Hualapai Tribal Letterhead)

Electronic Transmittal

August 07, 2003

Hualapai Nation  
Louise Benson, Chairwoman  
P.O. Box 179  
Peach Springs, Arizona 86434

Michael Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, DC 20554

Re: Draft Nationwide Programmatic Agreement (NWP)  
WT Docket No. –128; FCC 03-125

Dear Chairman Powell:

On behalf of the Hualapai Nation, I am providing comments on the draft NWP. The Nation would like to express appreciation for the Federal Communications Commission's (FCC) efforts in developing the draft document. The Nation understands the unique government-to-government relationship between the United States and sovereign Indian tribes, as well as the Federal government's trust responsibility to Indian peoples.

The Hualapai Nation resides on approximately one million acres that is the Hualapai Indian Reservation in northwest Arizona in Mohave County. The Hualapai people resided on more than seven million acres prior to Euro-American contact in the 1800's. These traditional homelands are still considered sacred and important to our cultural life-ways and practices. Cellular towers are being installed regularly in our ancestral homelands and our Preservation Office is inundated with numerous notification project letters. It is important to note that Mohave County is one the largest counties in the entire United States and that it is one of the fastest growing counties in the country today. So our concern for the NWP is of utmost importance.

In Part III of the NWP, the tribe objects to the section that addresses undertakings excluded from the Section 106 Review due to the fact there has been no adequate consultation with the Hualapai Nation concerning this section. The proposed NWP, Part III, suggest that exempt undertakings will have no potential effect on Hualapai Traditional Cultural Properties (TCP's) and sacred sites outside Hualapai tribal lands. FCC must consult with the Hualapai Nation in compliance with NHPA section 106 and the Advisory Council's regulations at 36 C.F.R. 800.2 c (2)(ii), 800.3(f)(2).

In Part IV, two alternatives are presented for tribal consultation in identifying historic properties at project locations not on tribal lands. Parts of **Alternative A** and **Alternative B** should be blended together to create a balance that can address tribal

concerns as well meet the legal requirements on the part of FCC. FCC is obligated to engage in full consultation with any tribe potentially affected by the siting of a communications tower. However, in Alternative B it provides that the FCC does not have to engage in such consultation if an applicant (cell tower builder) secures a letter of certification from any interested tribes that states that such consultation is no longer necessary because any tribal concerns have been adequately addressed. This is potentially a damaging action, since most tribes situated in the Southwest have overlapping ancestral homelands, especially in the state of Arizona. The concern here would be, who is held responsible if a tribe came forth with concerns or issues after the fact that another tribe gave consent !?! Please be more precise and detailed in this matter.

In Part V under item D., the Applicant should be responsible for obtaining from the SHPO/THPO lists of other groups or tribes with interest to a project area to notify for proposed undertakings, so Item D. should reflect that.

Part VI should include noise effects from generators, whether it is temporary or not. The direct effects need to include the cumulative effects of auditory and visual impacts as well as concentrated towers and antennas at one location. The visual effects need to address the uniqueness of the cultural landscape and geographic region of northwest Arizona representing Hualapai cultural concerns. This could be done through compliance through the National Environmental Policy Act (NEPA) and the NHPA.

Our tribe is committed to working in good faith with the FCC to assure that the NWPA is a document that can aid in facilitating the construction of communication facilities and protection of historic properties. We look forward to working towards a trustworthy relationship to tackle these issues through consultation.

Thank you for your consideration of these comments, if you have any questions, concerns or comments regarding this letter, please contact Loretta Jackson, Tribal Historic Preservation Officer, at (928) 769-2234.

By copy of this letter, we are informing the Arizona SHPO and the Advisory Council on Historic Preservation of the status of our review of the proposed NWPA.

Sincerely  
Louise Benson, Chairwoman  
Hualapai Tribal Council

cc:

Advisory Council on Historic Preservation  
Mr. James Garrison, Arizona State Historic Preservation Officer  
Ms. Amy Heuslein, Environmental Specialist, Bureau of Indian Affairs, Phoenix Area Office